

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC.,
FOREST LABORATORIES HOLDINGS,
LTD., MERZ PHARMA GMBH & CO.
KGAA, and MERZ PHARMACEUTICALS
GMBH,

Plaintiffs,

v.

C.A. No. 08-021 (GMS)

COBALT LABORATORIES INC., LUPIN
PHARMACEUTICALS, INC., LUPIN LTD.,
ORCHID PHARMACEUTICALS INC.,
ORCHID CHEMICALS &
PHARMACEUTICALS LTD. (d/b/a ORCHID)
HEALTHCARE), TEVA
PHARMACEUTICALS USA, INC.,
UPSHER-SMITH LABORATORIES, INC.,
WOCKHARDT USA INC., and
WOCKHARDT LIMITED,

Defendants.

DECLARATION OF MAILING

Maryellen Noreika. declares as follows:

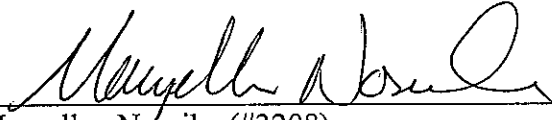
1. I am a member at the law firm of MORRIS, NICHOLS, ARSHT & TUNNELL LLP, counsel to plaintiffs in this action.
2. Defendant Upsher-Smith Laboratories, Inc. ("Upsher") is a Minnesota corporation having a principal place of business at 6701 Evenstad Drive, Maple Grove, Minnesota 55369.
3. The Summons and Complaint in this action were served on defendant Upsher on January 11, 2007, pursuant to 10 *Del. C.* § 3104, by hand delivery to the Delaware

Secretary of State, together with the statutory fee of \$2.00. A copy of the Summons, showing the service on the Secretary of State, was filed with the Court on January 14, 2007.

4. On January 14, 2008, copies of the Summons and Complaint were sent by registered mail to Upsher, 6701 Evenstad Drive, Maple Grove, Minnesota 55369, together with a notice stating that the service of the originals of such process had been made upon the Delaware Secretary of State, and that under 10 *Del. C.* § 3104, such service is as effectual to all intents and purposes as if it had been made upon Upsher personally within this state. *See* Exhibit A.

5. The registered mail return receipt that I received on January 25, 2008, shows that Upsher received and accepted the Summons, Complaint and notice. *See* Exhibit B.

I declare under penalty of perjury that the foregoing is true and correct.


Maryellen Noreika (#3208)

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2008 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to:.

Mary B. Matterer, Esquire
MORRIS JAMES LLP

Kelly E. Farman, Esquire
RICHARDS, LAYTON & FINGER, P.A.

Frederick L. Cottrell, III, Esquire
Anne Shea Gaza, Esquire
RICHARDS, LAYTON & FINGER, P.A.

I further certify that I caused to be served copies of the foregoing document on January 30, 2008 upon the following in the manner indicated:

Mary B. Matterer, Esquire
MORRIS JAMES LLP
500 Delaware Avenue
Suite 1500
Wilmington, DE 19801
Counsel for Cobalt Laboratories Inc.

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

William A. Rakoczy, Esquire
Paul J. Molino, Esquire
Deanne M. Mazzochi, Esquire
Neil A. Benchell, Esquire
John Polivick, Esquire
RAKOCZY MOLINO MAZZOCHI SIWIK LLP
6 West Hubbard Street
Suite 500
Chicago, IL 60610
Counsel for Cobalt Laboratories Inc.

VIA ELECTRONIC MAIL

Kelly E. Farman, Esquire
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
*Counsel for Wockhardt USA Inc. and
Wockhardt Limited*

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

Frederick L. Cottrell, III, Esquire
Anne Shea Gaza, Esquire
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
Counsel for Upsher-Smith Laboratories Inc.

*VIA ELECTRONIC MAIL
and HAND DELIVERY*

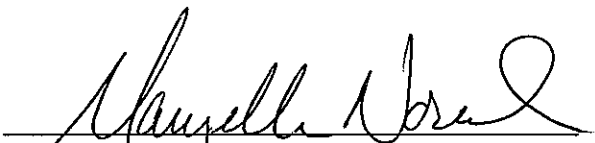

Maryellen Noreika (#3208)

EXHIBIT A

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

1201 NORTH MARKET STREET
P.O. Box 1347
WILMINGTON, DELAWARE 19899-1347

302 658 9200
302 658 3989 FAX

MARYELLEN NOREIKA
302 351 9278
302 425 3011 FAX
mnoreika@mnat.com

January 14, 2008

REGISTERED MAIL
RETURN RECEIPT REQUESTED

Upsher-Smith Laboratories, Inc.
6701 Evenstad Drive
Maple Grove, MN 55369

Re: Service of Process
Forest Laboratories, Inc., et al. v. Cobalt Laboratories Inc., et al.
C.A. No. 08-021

To whom it may concern:

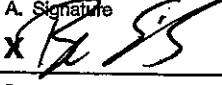
Enclosed are copies of the Summons, Complaint for patent infringement against Upsher-Smith Laboratories, Inc., Notice of Availability of a United States Magistrate Judge and Plaintiffs' Fed. R. Civ. P. 7.1 Statements in this action, which were served on the Delaware Secretary of State on January 11, 2008, pursuant to 10 *Del. C.* § 3104(d). Under 10 *Del. C.* § 3104(d), such service is as effectual for all intents and purposes as if it had been made upon Upsher-Smith Laboratories, Inc. personally within the State of Delaware.

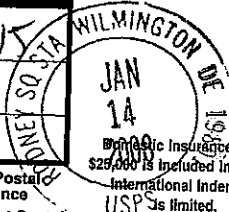
Sincerely,


Maryellen Noreika

MN/dlb
Enclosures

EXHIBIT B

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature </p> <p><input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Upsher-Smith Labs 6701 Everstad Drive Maple Grove MN 55369</p>		<p>B. Received by (Printed Name) Brent Eilerson</p>	<p>C. Date of Delivery 1/23/08</p>
<p>2. Article Number (Transfer from service label) RA 122 311 095 US</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p>	

Registered No.		Date Stamp	
RA 122 311 095 US			
To Be Completed By Post Office	Reg. Fee	9.55	
	Handling Charge		Return Receipt 2.15
	Postage	1.99	Restricted Delivery
	Received by		
Customer Must Declare Full Value \$		<input type="checkbox"/> With Postal Insurance <input checked="" type="checkbox"/> Without Postal Insurance	
<p>Official Insurance up to \$25,000 is included in the fee. International Indemnity USPS is limited. (See Reverse).</p>			
OFFICIAL USE			
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	MORRIS, NICHOLS, ARSHT & TUNNELL LLP P.O. BOX 1347 WILMINGTON, DE 19899 MN	
	TO	Upsher-Smith Labs 6701 Everstad Drive Maple Grove MN 55369	
<p>PS Form 3806, Receipt for Registered Mail May 2004 (7530-02-000-9051)</p> <p>For domestic delivery information, visit our website at www.usps.com</p>			

Copy 1 - Customer

(See Information on Reverse)